

January 12, 2015

To the Honorable Members of the
Illinois House of Representatives,
98th General Assembly:

I hereby return House Bill 3817 with specific recommendations for change.

My recommendation is that in addition to the provisions of the enrolled bill, this legislation would provide for a binding referendum to be held on April 7, 2015 in each of the State's election jurisdictions (generally, equivalent to a county, except for eight (8) Boards of Election Commissioners for certain municipalities), to raise the minimum wage in that election jurisdiction. Each election jurisdiction, except for City of Chicago, will be allowed to decide for themselves whether to raise the minimum wage for their own communities. The City of Chicago, which has already enacted an ordinance raising the minimum wage will not be required under this measure to have a binding referendum.

My specific recommendations for change do not in any way modify the provisions of House Bill 3817. Upon acceptance of my recommendations, the provisions of the bill that passed the General Assembly will take effect along with the measures that I am proposing.

At the November 4, 2014 general election, 66.74% voters supported a Statewide advisory referendum to increase the State minimum wage to ten dollars (\$10) per hour by January 1, 2015 from its current level of \$8.25 per hour.

During the fall legislative session, although the Illinois Senate passed a law to raise the minimum wage, the House of Representatives failed *even to consider* a minimum wage bill before adjourning *sine die*. But the House did find time to address other pieces of legislation. One of the proposals the House did address was a measure to give a tax benefit to profitable retail businesses that also offer "private label" credit cards. Yet, helping Illinois working families by raising the minimum wage was not as high a priority. The House's failure to address this paramount issue after hearing the electorate's clear message undermines democracy.

We must return to the basic principles of direct democracy.

Under my recommendations for change, the people of the State of Illinois would be afforded the opportunity at the April 7, 2015 consolidated election to vote on whether to increase the minimum wage. 109 of the State's 110 election jurisdictions would hold the binding referendum on raising the minimum wage, and allow the voters within their jurisdiction to make the choice. The one exception is that the Chicago Board of Election Commissioners—which serves only the City of Chicago—will not be required under my proposal to hold the referendum since the Chicago City Council has already enacted a minimum wage increase.

Holding a binding referendum in each election jurisdiction will allow the people of Illinois to enact the policy they support but which the elected members of the House of Representatives chose to ignore.

Therefore, pursuant to Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return House Bill 3817, entitled "AN ACT concerning elections.", with the following specific recommendations for change:

On Page 8 by inserting immediately below line 26 the following:

"Section 1. Short title.

This Act may be cited as the Minimum Wage Increase Binding Referendum Act.

Section 2. Definitions.

'Election authority' means a county clerk or a Board of Election Commissioners, but for purposes of this Amendatory Act of the 98th General Assembly does not include the Chicago Board of Election Commissioners.

'Election Jurisdiction' means (a) an entire county, in the case of a county in which no city board of election commissioners is located or which is under the jurisdiction of a county board of election commissioners; (b) the territorial jurisdiction of a city board of election commissioners; and (c) the territory in a county outside of the jurisdiction of a city board of election commissioners. In each instance election jurisdiction shall be determined according to which election authority maintains the permanent registration records of qualified electors, but for purposes of this Amendatory Act of the 98th General Assembly does not include the Chicago Board of Election Commissioners.

Section 5. Referendum.

The State Board of Elections shall cause to be certified to each election authority a public question to be submitted to binding referendum at the consolidated election to be held on April 7, 2015. The question shall appear in the following form:

'Shall the minimum wage in [name of election jurisdiction], Illinois for adults over the age of 18 be raised to \$10 per hour by July 1, 2015?'

'A yes vote indicates that you approve and support enacting a higher minimum wage and a no vote indicates that you oppose raising the minimum wage.'

The votes on the question shall be recorded as "Yes" or "No".

If a majority of those voting on the question vote "yes" the election authority shall deem the measure passed and it shall become law for the area within that election jurisdiction. Upon final canvassing of the results of the referendum, the election authority shall certify the results from the voters of the election jurisdictions to the State Board of Elections, who will publish the results on its publicly accessible website. The increase in the minimum wage takes effect if approved by the voters of the election jurisdiction upon certification by the election authority of the results of the referendum to the State Board of Elections.

Section 10. Certification.

The State Board of Elections shall immediately certify the question to be submitted to the voters of each election jurisdiction under Section 5 to each election authority. The State Board of Elections may also adopt administrative rules as necessary to facilitate the implementation and enforcement of the provisions of this Amendatory Act of the 98th General Assembly.

Section 15. Conflicts.

In the case that the provisions of this Act of the 98th General Assembly conflict, contradict or are otherwise inconsistent with any existing, law, rule, or regulations, the provisions of this Act control."

Section 10. The Minimum Wage Law is amended by changing Section 4 as follows:

Sec. 4. (a)(1) Every employer shall pay to each of his employees in every occupation wages of not less than \$2.30 per hour or in the case of employees under 18 years of age wages of not less than \$1.95 per hour, except as provided in Sections 5 and 6 of this Act, and on and after January 1, 1984, every employer shall pay to each of his employees in every occupation wages of not less than \$2.65 per hour or in the case of employees under 18 years of age wages of not less than \$2.25 per hour, and on and after October 1, 1984 every employer shall pay to each of his employees in every occupation wages of not less than \$3.00 per hour or in the case of employees under 18 years of age wages of not less than \$2.55 per hour, and on or after July 1, 1985 every employer shall pay to each of his employees in every occupation wages of not less than \$3.35 per hour or in the case of employees under 18 years of age wages of not less than \$2.85 per hour, and from January 1, 2004 through December 31, 2004 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$5.50 per hour, and from January 1, 2005 through June 30, 2007 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$6.50 per hour, and from July 1, 2007 through June 30, 2008 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$7.50 per hour, and from July 1, 2008 through June 30, 2009 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$7.75 per hour, and from July 1, 2009 through June 30, 2010 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$8.00 per hour, and from on and after July 1, 2010, every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$8.25 per hour.

(a)(1)(1) Local Option referendum.

The voters of each election jurisdiction in the State of Illinois are authorized to increase the minimum wage applicable to their election jurisdiction pursuant to the provisions of this Amendatory Act of the 98th General Assembly. For purposes of this Section 4 of the Minimum Wage Law, "election jurisdiction" has the same meaning as provided for in Section 2 of the Minimum Wage Increase Binding Referendum Act

In an election jurisdiction that approves by a majority vote of the electors of a binding referendum submitted to the voters at the April 7, 2015 general election in accordance with the Minimum Wage Increase Binding Referendum Act, the provisions of this subsection (a)(1)(1) apply within that election jurisdiction and the provisions of subsection (a)(1) are hereby superseded.

If the voters of the election jurisdiction approve the referendum authorized in the Minimum Wage Increase Binding Referendum Act the following becomes effective on the day that the election authority certifies the result of the referendum:

Every employer shall pay to each of his employees in every occupation wages of not less than \$2.30 per hour or in the case of employees under 18 years of age wages of not less than \$1.95 per hour, except as provided in Sections 5 and 6 of this Act, and on and after January 1, 1984, every employer shall pay to each of his employees in every occupation wages of not less than \$2.65 per hour or in the case of employees under 18 years of age wages of not less than \$2.25 per hour, and on and after October 1, 1984 every employer shall pay to each of his employees in every occupation wages of not less than \$3.00 per hour or in the case of employees under 18 years of age wages of not less than \$2.55 per hour, and on or after July 1, 1985 every employer shall pay to each of his employees in every occupation wages of not less than \$3.35 per hour or in the case of employees under 18 years of age wages of not less than \$2.85 per hour, and from January 1, 2004 through December 31, 2004 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$5.50 per hour, and from January 1, 2005 through June 30, 2007 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$6.50 per hour, and from July 1, 2007 through June 30, 2008 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$7.50 per hour, and from July 1, 2008 through June 30, 2009 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$7.75 per hour, and from July 1, 2009 through June 30, 2010 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$8.00 per hour, and from July 1, 2010, every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$8.25 per hour through June 30, 2015, and on and after July 1, 2015 every employer shall pay to each of his or her employees who is 18 years of age or older in every occupation wages of not less than \$10.00 per hour.

(2) Unless an employee's wages are reduced under Section 6, then in lieu of the rate prescribed in item (1) of this subsection (a), an employer may pay an employee who is 18 years of age or older, during the first 90 consecutive calendar days after the employee is initially employed by the employer, a wage that is not more than 50¢ less than the wage prescribed in item (1) of this subsection (a); however, an employer shall pay not less than the rate prescribed in item (1) of this subsection (a) to:

(A) a day or temporary laborer, as defined in Section 5 of the Day and Temporary Labor Services Act, who is 18 years of age or older; and

(B) an employee who is 18 years of age or older and whose employment is occasional or irregular and requires not more than 90 days to complete.

(3) At no time shall the wages paid to any employee under 18 years of age be more than 50¢ less than the wage required to be paid to employees who are at least 18 years of age under item (1) of this subsection (a).

(b) No employer shall discriminate between employees on the basis of sex or mental or physical handicap, except as otherwise provided in this Act by paying wages to employees at a rate less than the rate at which he pays wages to employees for the same or substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (1) a seniority system; (2) a merit system; (3) a system which measures earnings by quantity or quality of production; or (4) a differential based on any other factor other than sex or mental or physical handicap, except as otherwise provided in this Act.

(c) Every employer of an employee engaged in an occupation in which gratuities have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes is entitled to an allowance for gratuities as part of the hourly wage rate provided in Section 4, subsection (a) in an amount not to exceed 40% of the applicable minimum wage rate. The Director shall require each employer desiring an allowance for gratuities to provide substantial evidence that the amount claimed, which may not exceed 40% of the applicable minimum wage rate, was received by the employee in the period for which the claim of exemption is made, and no part thereof was returned to the employer.

(d) No camp counselor who resides on the premises of a seasonal camp of an organized not-for-profit corporation shall be subject to the adult minimum wage if the camp counselor (1) works 40 or more hours per week, and (2) receives a total weekly salary of not less than the adult minimum wage for a 40-hour week. If the counselor works less than 40 hours per week, the counselor shall be paid the minimum hourly wage for each hour worked. Every employer of a camp counselor under this subsection is entitled to an allowance for meals and lodging as part of the hourly wage rate provided in Section 4, subsection (a), in an amount not to exceed 25% of the minimum wage rate.

(e) A camp counselor employed at a day camp is not subject to the adult minimum wage if the camp counselor is paid a stipend on a onetime or periodic basis and, if the camp counselor is a minor, the minor's parent, guardian or other custodian has consented in writing to the terms of payment before the commencement of such employment.

(f) Effect of Election Jurisdiction Binding Referenda and Home Rule Preemption

(1) The establishment of a minimum wage that employers must pay their employees is not an exclusive power of the State and may be exercised concurrently by the State and also at the election jurisdiction level as provided for in this Amendatory Act of the 98th General Assembly. Upon referendum approval of a public question authorizing an increase in the minimum wage in the election jurisdiction, the minimum wage shall increase according to the provisions of this Amendatory Act of the 98th General Assembly and the Minimum Wage Increase Binding Referendum law.

(2) Paragraph (1) of this subsection (f) shall not apply to Ordinance No. 02014-9680 adopted by the City Council of City of Chicago on December 2, 2014, provided that: (i) the provisions set forth in that ordinance are not changed by the City Council of the City of Chicago after December 2, 2014; (ii) the minimum wage required to be paid to employees subject to Section 1-24-020 of that ordinance beginning July 1, 2019, and each year thereafter, is no greater than \$13.00 per hour; and (iii) the minimum wage required to be paid employees subject to that ordinance in occupations receiving gratuities beginning July 1, 2019, and each year thereafter, is no greater than the amount calculated by the Commissioner of Business Affairs and Consumer Protection of the City of Chicago by June 1, 2018 pursuant to paragraph (3) of subsection (a) of Section 1-24-030 of that ordinance. This paragraph (2) of this subsection (f) is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

With these changes, House Bill 3817 will have my approval. I respectfully request your concurrence.

Sincerely,

PAT QUINN
Governor